

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

IN RE:

JORGE L. FERNANDEZ MEDINA

Debtor

FIRSTBANK PUERTO RICO

Movant

CASE No.: 14-00282 (ESL)

CHAPTER 13

(X) Dismissal *for cause*, pursuant to 11 U.S.C.
§1307(c)(1) and (6)

MOTION TO DISMISS

TO THE HONORABLE COURT:

Comes now movant **FIRSTBANK PUERTO RICO** through its undersigning attorney and very respectfully ALLEGES, STATES and PRAYS:

1. The case of reference was filed on January 18, 2014. The plan dated October 29, 2014 (docket no. 40) was confirmed on November 3, 2014 (docket no. 43).
2. Movant filed a secured proof of claim as holder of a duly registered personal security interest guaranteed with a vehicle under Debtor's name, identified as no. 4 at Claims' Register.
3. Debtor failed to comply with payments under the terms of the confirmed plan.

According to the records made available by the Trustee, **as of September 6, 2016 owes trustee \$1,000.00, equivalent to two (2) months.** (See *Attachment "A"*.) [Movant's analysis on payments has been included with this motion as *Attachment "B"*.] Said failure constitutes sufficient cause to request the dismissal of the instant case under section 1307(c) of the Bankruptcy Code.

4. Pursuant to the *Service Members Civil Relief Act*, the data of the Department of the Defense Manpower Data Center confirms that debtor is not a member of the Uniformed Services (U.S. Armed Forces, Navy, Marine Corps, Air Force, NOAA, Public Health or Coast Guard.) (See *Attachment "C"*.)

WHEREFORE, for the above stated reasons, Movant respectfully requests from this Honorable Court to enter an Order dismissing the instant case for cause pursuant to the dispositions of 11 U.S.C. §1307(c)(6), on the grounds of *material default by the debtor to the*

Motion to dismiss
FIRSTBANK Puerto Rico

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terms of the confirmed plan and 11 U.S.C. §1307(c)(1) for unreasonable delay by the debtor that is prejudicial to creditors.

NOTICE

Within thirty (30) days after service as evidenced by the certification and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this motion has been served or any other party to the action who objects to the relief sought herein, shall file and serve an objection or other appropriate response to this motion with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, this motion will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law, (2) the requested relief is against public policy or (iii) in the opinion of the Court, the interest of justice requires otherwise. (Local Bankruptcy Rule 9013-1(c)(2)(F)).

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 19th day of September, 2016.

CERTIFICATE OF SERVICE

I hereby certify that a copy was served by CM/ECF at the authorized address to: all creditors; José R. Carrión Morales, Esq., Chapter 13 Trustee; Roberto Figueroa Carrasquillo, Esq., debtor's attorney and to debtor by regular mail to the address of record: P.O. Box 047, San Lorenzo, P.R. 00754, as per the attached *List of Creditors*.

//s// Maricarmen Colón Díaz
MARICARMEN COLON DIAZ, Esq.
Attorney for Movant- USDC 211410
MARIA M. BENABE RIVERA- USDC 208906
P.O. Box 9146, Santurce, P.R. 00908-0146
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Attachment "A"

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14-00282-ESL	JORGE LUIS FERNANDEZ MEDINA (xxx-xx-9590)	PO BOX 047 • • SAN LORENZO • PR • 00754	\$500.00 MO	Bar Date(s): 5/27/2014 (has passed) 7/17/2014 (has passed)
Trustee: José R. Carrión			Attorney: ROBERTO FIGUEROA CARRASQUILLO*	Confirmed: 11/3/2014
				Case Status: ACTIVE

Debtor Pay Schedules

Start Date	Number Periods	Amount	How Often	Who's Paying	Order Date	Action
2/17/2014	2.00	\$500.00	MONTHLY	JORGE LUIS FERNANDEZ MEDINA	10/30/2014	
4/17/2014	2.00	\$0.00	MONTHLY	JORGE LUIS FERNANDEZ MEDINA	10/30/2014	
6/17/2014	32.00	\$500.00	MONTHLY	JORGE LUIS FERNANDEZ MEDINA	10/30/2014	
2/17/2017	24.00	\$545.00	MONTHLY	JORGE LUIS FERNANDEZ MEDINA	10/30/2014	
2/17/2019	end of plan	\$0.00	MONTHLY	JORGE LUIS FERNANDEZ MEDINA	10/30/2014	

Forgive Information

Date	Amount	Description
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Payments Expected for Step 1:

Period	Start Date	End Date	Payment Amount Expected	Total
1	2/17/2014	3/16/2014	\$500.00	\$500.00
2	3/17/2014	4/16/2014	\$500.00	\$1,000.00
Total				\$1,000.00

Payments Expected for Step 2:

Period	Start Date	End Date	Payment Amount Expected	Total
1	4/17/2014	5/16/2014	\$0.00	\$0.00
2	5/17/2014	6/16/2014	\$0.00	\$0.00
Total				\$0.00

Payments Expected for Step 3:

Period	Start Date	End Date	Payment Amount Expected	Total
1	6/17/2014	7/16/2014	\$500.00	\$500.00
2	7/17/2014	8/16/2014	\$500.00	\$1,000.00
3	8/17/2014	9/16/2014	\$500.00	\$1,500.00
4	9/17/2014	10/16/2014	\$500.00	\$2,000.00
5	10/17/2014	11/16/2014	\$500.00	\$2,500.00
6	11/17/2014	12/16/2014	\$500.00	\$3,000.00
7	12/17/2014	1/16/2015	\$500.00	\$3,500.00
8	1/17/2015	2/16/2015	\$500.00	\$4,000.00
9	2/17/2015	3/16/2015	\$500.00	\$4,500.00
10	3/17/2015	4/16/2015	\$500.00	\$5,000.00
11	4/17/2015	5/16/2015	\$500.00	\$5,500.00
12	5/17/2015	6/16/2015	\$500.00	\$6,000.00
13	6/17/2015	7/16/2015	\$500.00	\$6,500.00
14	7/17/2015	8/16/2015	\$500.00	\$7,000.00
15	8/17/2015	9/16/2015	\$500.00	\$7,500.00
16	9/17/2015	10/16/2015	\$500.00	\$8,000.00
17	10/17/2015	11/16/2015	\$500.00	\$8,500.00
18	11/17/2015	12/16/2015	\$500.00	\$9,000.00
19	12/17/2015	1/16/2016	\$500.00	\$9,500.00
20	1/17/2016	2/16/2016	\$500.00	\$10,000.00
21	2/17/2016	3/16/2016	\$500.00	\$10,500.00
22	3/17/2016	4/16/2016	\$500.00	\$11,000.00
23	4/17/2016	5/16/2016	\$500.00	\$11,500.00
24	5/17/2016	6/16/2016	\$500.00	\$12,000.00
25	6/17/2016	7/16/2016	\$500.00	\$12,500.00
26	7/17/2016	8/16/2016	\$500.00	\$13,000.00
27	8/17/2016	9/16/2016	\$500.00	\$13,500.00
28	9/17/2016	10/16/2016	\$500.00	\$14,000.00
29	10/17/2016	11/16/2016	\$500.00	\$14,500.00
30	11/17/2016	12/16/2016	\$500.00	\$15,000.00
31	12/17/2016	1/16/2017	\$500.00	\$15,500.00
32	1/17/2017	2/16/2017	\$500.00	\$16,000.00
Total				\$16,000.00

Payments Expected for Step 4:

Period	Start Date	End Date	Payment Amount Expected	Total
1	2/17/2017	3/16/2017	\$545.00	\$545.00
2	3/17/2017	4/16/2017	\$545.00	\$1,090.00
3	4/17/2017	5/16/2017	\$545.00	\$1,635.00
4	5/17/2017	6/16/2017	\$545.00	\$2,180.00
5	6/17/2017	7/16/2017	\$545.00	\$2,725.00
6	7/17/2017	8/16/2017	\$545.00	\$3,270.00
7	8/17/2017	9/16/2017	\$545.00	\$3,815.00
8	9/17/2017	10/16/2017	\$545.00	\$4,360.00
9	10/17/2017	11/16/2017	\$545.00	\$4,905.00
10	11/17/2017	12/16/2017	\$545.00	\$5,450.00
11	12/17/2017	1/16/2018	\$545.00	\$5,995.00
12	1/17/2018	2/16/2018	\$545.00	\$6,540.00
13	2/17/2018	3/16/2018	\$545.00	\$7,085.00
14	3/17/2018	4/16/2018	\$545.00	\$7,630.00
15	4/17/2018	5/16/2018	\$545.00	\$8,175.00
16	5/17/2018	6/16/2018	\$545.00	\$8,720.00
17	6/17/2018	7/16/2018	\$545.00	\$9,265.00
18	7/17/2018	8/16/2018	\$545.00	\$9,810.00
Total				\$9,810.00

Payments Expected for Step 5:

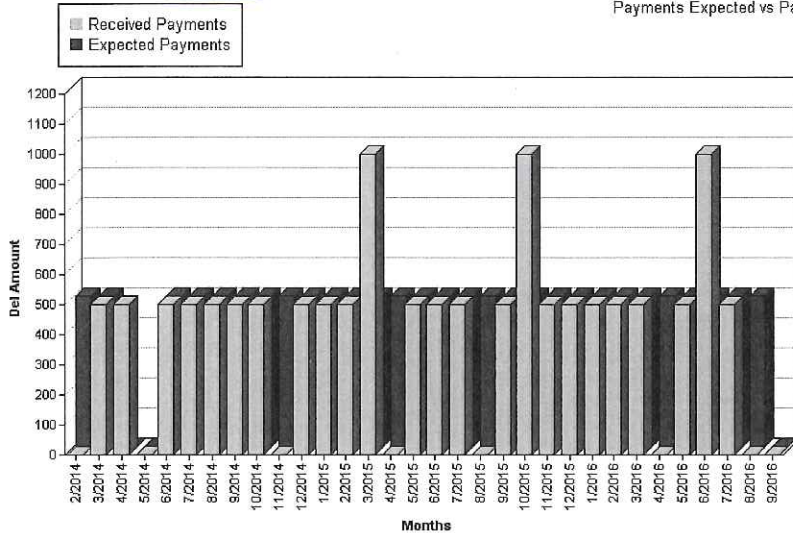
Period	Start Date	End Date	Payment Amount Expected	Total
1	2/17/2019	3/16/2019	\$0.00	\$0.00
Total				\$0.00

Breakdown for Combined Schedules

Period	Date (Month/Year)	Payment Due	Payment Received	Forgive Amount	Amount Due
1	2/2014	\$500.00			\$500.00
2	3/2014	\$500.00	\$500.00		\$500.00
3	4/2014	\$0.00	\$500.00		\$0.00
4	5/2014	\$0.00			\$0.00
5	6/2014	\$500.00	\$500.00		\$0.00
6	7/2014	\$500.00	\$500.00		\$0.00
7	8/2014	\$500.00	\$500.00		\$0.00
8	9/2014	\$500.00	\$500.00		\$0.00
9	10/2014	\$500.00	\$500.00		\$0.00
10	11/2014	\$500.00			\$500.00
11	12/2014	\$500.00	\$500.00		\$500.00
12	1/2015	\$500.00	\$500.00		\$500.00
13	2/2015	\$500.00	\$500.00		\$500.00
14	3/2015	\$500.00	\$1,000.00		\$0.00
15	4/2015	\$500.00			\$500.00
16	5/2015	\$500.00	\$500.00		\$500.00
17	6/2015	\$500.00	\$500.00		\$500.00
18	7/2015	\$500.00	\$500.00		\$500.00
19	8/2015	\$500.00			\$1,000.00
20	9/2015	\$500.00	\$500.00		\$1,000.00
21	10/2015	\$500.00	\$1,000.00		\$500.00
22	11/2015	\$500.00	\$500.00		\$500.00
23	12/2015	\$500.00	\$500.00		\$500.00
24	1/2016	\$500.00	\$500.00		\$500.00
25	2/2016	\$500.00	\$500.00		\$500.00
26	3/2016	\$500.00	\$500.00		\$500.00
27	4/2016	\$500.00			\$1,000.00
28	5/2016	\$500.00	\$500.00		\$1,000.00
29	6/2016	\$500.00	\$1,000.00		\$500.00
30	7/2016	\$500.00	\$500.00		\$500.00
31	8/2016	\$500.00			\$1,000.00
32	9/2016				\$1,000.00

Total Delinquent Amount: \$1,000.00

Payments Expected vs Payments Received



Attachment "B"

FIRSTBANK

Analysis Sheet to Determine Arrears to Trustee

In Re	:	Jorge L Fernández Medina
Case Number	:	14-00282
Account Number	:	1514 (auto)
Date of File	:	01/18/2014
Amount of Proof of Claim	:	12,540.98
Plan	:	500.00x2=1,000.00 0.00x2=0.00 500.00x32=16,000.00 545.00x24=13,080.00
Monthly Payment of	:	500.00
Pass term	:	31
Total paid in to plan	:	13,500.00
Should have pain in to plan	:	14,500.00
Amount in arrears	:	1,000.00 (2 arrears)
Printed on	:	09/06/2016
Prepared by	:	Sonia Santiago



Status Report Pursuant to Servicemembers Civil Relief Act

Attachment "C"

Last Name: FERNANDEZ MEDINA

First Name: JORGE

Middle Name: L.

Active Duty Status As Of: Sep-07-2016

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

Mary M. Snavelly-Dixon

Mary M. Snavelly-Dixon, Director
Department of Defense - Manpower Data Center
4800 Mark Center Drive, Suite 04E25
Arlington, VA 22350

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. § 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via this URL: <https://kb.defense.gov/PublicQueries/publicQuestions/FaqsAnswers.jsp?Subject=Locating Service Members or Getting a Mailing Address>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. § 521(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC § 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.

Certificate ID: ECJDF0AA7364G00

Label Matrix for local noticing
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Case 14-00282-ESL13
District of Puerto Rico
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US Bankruptcy Court District of P.R.
Jose V Toledo Fed Bldg & US Courthouse
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San Juan, PR 00901-1964

CLARO
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OFFICE OF THE US TRUSTEE (UST)
OCHOA BUILDING
500 TANCA STREET SUITE 301
SAN JUAN, PR 00901

ROBERTO FIGUEROA CARRASQUILLO
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CAGUAS, PR 00726-0186

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